

Decision 03-06-056 June 19, 2003

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

In the Matter of the Application of BayPorter Express, Inc. to establish a zone of rate freedom from its current tariff rates, pursuant to the provisions of Section 454.2 of the Public Utilities Code.

Application 02-07-049  
(Filed July 22, 2002)

**O P I N I O N**

**Summary**

This decision grants the application of BayPorter Express (Applicant), a corporation, to increase its fares pursuant to Public Utilities (Pub. Util.) Code § 454, and to establish a zone of rate freedom (ZORF) pursuant to Pub. Util. Code § 454.2.

**Discussion**

Applicant is authorized to transport passengers and their baggage as a passenger stage corporation (PSC-1442) pursuant to Decision (D.) 87-05-080, as amended, (1) on an on-call basis between points in Alameda, Contra Costa, San Mateo, and Santa Clara Counties, on the one hand, and San Francisco International Airport (SFO), Oakland International Airport (OAK), and San Jose International Airport (SJC), on the other hand; and (2) on a scheduled basis between SFO and Richmond, Concord, OAK and SJC, and between Stanford University and SJC.

D.90-11-019, dated November 9, 1990, authorized Applicant to establish a ZORF of \$5 above and below its fares of \$10 to \$20; \$10 above and below fares

between \$21 and \$30; and \$15 above and below fares of \$31 or more. The "base rates" around which the ZORF applies are Applicant's original fares. It has not sought to increase the base rates since it established its initial service in 1987. Applicant has relied on its ZORF to increase fares, and has not changed fares within the ZORF since November 15, 1999. Many of Applicant's current fares have reached the upper limits of its existing ZORF.

Applicant has experienced a significant increase in costs and a decrease in the volume of air travelers it serves. Financial information submitted by Applicant shows, for example, that between 2001 and 2002 its workers' compensation insurance premiums more than doubled, and the cost to repair and maintain its vehicle fleet increased 33%. Other expenses, such as wages, fuel, and liability insurance premiums, also went up. During this same period, revenue fell nearly 10% and net income decreased approximately 50%. Applicant states that these and other factors associated with the current business climate have made it difficult to cover the costs of operating the business.

Applicant requests authority to increase its fares by making its existing fares under the ZORF its new base rates. Applicant also requests authority to broaden the range of its existing ZORF to \$10 above and below fares of \$15 to \$30; \$15 above and below fares of \$31 to \$44; and \$20 above and below fares of \$45 or more. The expanded ZORF would apply to the new base rates that Applicant seeks to establish by this application.

Applicant states it will always price its fares at reasonable levels, considering the competitive environment that exists at the airports and in the areas it serves. Applicant competes with other PSCs, taxicabs, limousines, buses, rail transit, and automobiles in its service area. Many other PSCs have been granted ZORFs. The ZORF requested by Applicant is consistent with the ZORFs held by other PSCs.

Notice of filing of the application appeared in the Commission's Daily Calendar on August 6, 2002, and the application was supplemented by current financial information included with correspondence dated February 26, 2003.

In Resolution ALJ 176-3092 dated August 8, 2002, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. No protest has been received. Given this status, public hearing is not necessary, and it is not necessary to alter the preliminary determinations made in Resolution ALJ 176-3092.

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Pub. Util. Code § 311(g)(2), the otherwise applicable 30-day period for public review and comment is being waived.

#### **Assignment of Proceeding**

Richard Clark is the assigned Examiner in this proceeding.

#### **Findings of Fact**

1. Applicant is currently authorized to operate as a PSC (1) on an on-call basis between points in Alameda, Contra Costa, San Mateo, and Santa Clara Counties, on the one hand, and San Francisco International Airport (SFO), Oakland International Airport (OAK), and San Jose International Airport (SJC), on the other hand; and (2) on a scheduled basis between SFO and Richmond, Concord, OAK, and SJC, and between Stanford University and SJC.

2. Applicant seeks authority to increase its fares by making its current fares established under the ZORF granted by D.90-11-019 its new base rates.

3. Applicant requests authority to establish a new ZORF of \$10 above and below any fare of \$15 to \$30; \$15 above and below any fare of \$31 to \$44; and \$20 above and below any fare of \$45 or more, currently published in its Local Passenger Tariff No. 6, CPUC No. 6, filed with the Commission. The current

fares would constitute the base rates around which the requested ZORF would apply.

4. Applicant has not sought Commission authorization to increase its rates since it established its initial service in 1987.

5. Applicant has not made any changes to its fares published within its ZORF since November 15, 1999.

6. Applicant has demonstrated that its costs have increased significantly, its revenue fell nearly 10% between 2001 and 2002, and its net income for 2002 was half that of 2001.

7. Applicant will compete with PSCs, taxicabs, limousines, buses, rail transit, and automobiles in its operations. The ZORF is fair and reasonable.

8. No protest to the application has been filed.

9. A public hearing is not necessary.

10. It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

### **Conclusions of Law**

1. The application for an increase in rates is justified and should be granted.

2. The requested ZORF is reasonable and should be granted.

3. Before Applicant changes any fares under the ZORF authorized below, Applicant should give this Commission at least ten days' notice. The tariff should show the high and low ends of the ZORF and the then currently effective fare between each pair of service points.

4. Since the matter is uncontested, the decision should be effective on the date it is signed.

**O R D E R**

**IT IS ORDERED** that:

1. BayPorter Express (Applicant), a corporation, is authorized under Public Utilities (Pub. Util.) Code § 454 to increase its rates in its Local Passenger Tariff No. 6, CPUC No. 6, as requested in the application.
2. Applicant is authorized under Pub. Util. Code § 454.2 to establish a zone of rate freedom (ZORF) around the increased base rates authorized by this decision of \$10 above and below any fare of \$15 to \$30; \$15 above and below any fare of \$31 to \$44; and \$20 above and below any fare of \$45 or more.
3. Applicant shall file its tariff changes in accordance with this order on not less than ten days' notice to the Commission and to the public. The ZORF granted herein shall expire unless exercised within 120 days after the effective date of this order.
4. Applicant may make changes within the ZORF by filing amended tariffs on not less than ten days' notice to the Commission and to the public. The tariff shall include the authorized maximum and minimum fares and the fare to be charged between each pair of service points.
5. In addition to posting and filing tariffs, Applicant shall post notices explaining fare changes in its terminals and passenger-carrying vehicles. Such notices shall be posted at least ten days before the effective date of the fare changes and shall remain posted for at least 30 days.
6. The Application is granted as set forth above.

7. This proceeding is closed.

This order is effective today.

Dated June 19, 2003, at San Francisco, California.

MICHAEL R. PEEVEY

President

CARL W. WOOD

LORETTA M. LYNCH

GEOFFREY F. BROWN

SUSAN P. KENNEDY

Commissioners